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FISCAL IMPACT STATEMENT

LS 7393 | **NOTE PREPARED:** Feb 4, 2013
BILL NUMBER: SB 560 | **BILL AMENDED:** Feb 4, 2013

SUBJECT: Utility Transmission.

FIRST AUTHOR: Sen. Hershman | **BILL STATUS:** CR Adopted - 1st House
FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL | **IMPACT:** State & Local
X DEDICATED
FEDERAL

Summary of Legislation: (Amended) The bill requires the Office of Utility Consumer Counselor (OUCC) to investigate a utility's petition for a transmission, distribution, and storage system improvement charge (TDSIC) and report its activities to the Indiana Utility Regulatory Commission (IURC).

The bill authorizes the Counselor to request additional funding from the State Budget Agency (SBA).

The bill authorizes a utility that provides electric or gas service to petition the commission to recover transmission, distribution, and storage system improvements costs (TDSIC) if certain conditions are met. The bill requires a utility that seeks to recover TDSIC costs to recover 80% of the costs and defer the remaining 20%. It requires a public utility to petition the IURC for approval of the public utility's five year plan and any targeted economic development projects. It authorizes the commission to require a public utility that recovers TDSIC costs to submit certain financial information to the commission for review of basic rates and charges.

It defines "targeted economic development project" for purposes of TDSIC recovery. The bill allows a public utility to collect a deposit or other assurance of performance from an economic development organization or the developer of a targeted economic development project under certain conditions.

The bill allows the IURC to grant a new electric transmission owner authority to operate as a public utility in Indiana. It provides administrative guidelines to IURC.

The bill allows a customer of an electricity supplier to petition the IURC for a temporary discount to the demand component of the rates and charges in the electricity supplier's applicable tariff if the customer: (1) has or will have a maximum demand for electricity of at least ten megawatts (MW); (2) employs more than 50 full time employees in Indiana; (3) demonstrates that the discount is necessary and essential to attract or create additional jobs or retain existing jobs in Indiana; and (4) demonstrates that the customer's load will increase by at least 1 MW.

It provides that the IURC may approve the requested discount if the IURC finds that the discount is just and reasonable and consistent with the circumstances described in the customer's application. It provides that the discount may be up to: (1) 10%; (2) 15%; or (3) 20%; of the demand component of the rates and charges in the applicable tariff, depending on the circumstances for which the discount is granted.

It provides that: (1) a discount expires 3 years after the effective date of the discount; and (2) a discount shall be included by the IURC in the cost of service for the electricity supplier and may be deferred for rate making purposes by the electricity supplier until its next general rate case.

The bill allows counties to establish infrastructure development zones. It provides that natural gas infrastructure would be exempt from property tax in an infrastructure development zone.

The bill requires the Indiana Department of Transportation (INDOT) to develop a program to coordinate the use of public rights of way with utilities when the INDOT undertakes an infrastructure improvement project.

Effective Date: (Amended) July 1, 2013; Upon passage.

Explanation of State Expenditures: (Revised) *Office of Utility Consumer Counselor*: The OUCC will incur additional cost related to TDSIC petition investigation. The bill allows OUCC to submit a request for additional funding to the SBA.

Indiana Utility Regulatory Commission: The petition for a transmission, distribution, and storage system improvement charge (TDSIC) rate has to be approved by the IURC. The bill provides additional responsibilities to the IURC relating to the review and approval of a TDSIC rate increase to the IURC. The bill also provides new process under which the IURC would approve new electrical utilities if certain conditions are met.

Any increase in administrative costs to the IURC or OUCC will be offset by public utility fees. The IURC and the OUCC are funded by public utility fees. Each public utility must pay equal to 0.15% of its gross intrastate operating revenues for the preceding calendar year. The actual fee is based on the budgets of IURC and OUCC. At the end of the fiscal year, if the total public utility fees in the Public Utility Fund plus the unspent balance of the Fund exceeds the total appropriations for the IURC and the OUCC (plus a $250,000 contingency fund), then the IURC must compute each utility's share of the excess. This share is then deducted from any subsequent payment of the utility's public utility fees.

Electric Utility Authority: The bill defines "new electric transmission owner" as an entity organized to primarily operate an electric utility in Indiana and that on the date of its incorporation or organization, does not own, operate, or maintain an electric transmission facility.

The bill allows the IURC to grant a new electric utility authority to operate as a public utility in Indiana if the IURC makes the following findings:
(1) The new electric transmission owner has the financial, managerial, and technical capability to construct,

own, operate, and maintain an electric transmission facility;
(2) The new electric transmission owner has the ability and intent to comply with all statutes, rules, and regulations enforced by the commission;
(3) The new electric transmission owner has the intent to construct, own, operate, and maintain an electric transmission facility that is under consideration for selection in a regional transmission plan; and
(4) The new electric transmission owner has provided written notice of its request for authority under this section to each incumbent electric transmission owner that may connect its existing electric transmission facility to the new electric transmission facility of the new electric transmission owner.

The bill provides that the IURC may consider the creditworthiness of the new electric utility in regards to granting authority to the utility. It provides further guidelines related to granting the authority to operate.

The bill further provides procedures on the potential contract between the new electrical utility and an incumbent electric utility. It requires IURC to resolve any dispute.

Indiana Department of Transportation: The bill requires INDOT to share information with the public utilities and develop a program to create efficiency related to public-rights-of-way. INDOT's current resources should be sufficient to implement the provisions in the bill.

Explanation of State Revenues: (Revised) *Utility Rates*: The bill provides that subject to IURC approval, a utility may increase rates and charges to recover TDSIC costs. The IURC may not approve a TDSIC that would result in an average aggregate increase in a public utility's total revenues by more than 3%.

The bill also allows a public utility that provides electric or gas utility service may file with the commission rate schedules establishing a TDSIC that will allow the periodic automatic adjustment of the public utility's basic rates and charges to provide for timely recovery of eighty percent (80%) of approved capital expenditures and TDSIC costs. The petition must: (1) use the customer class revenue allocation approved in the public utility's most recent retail base rate case order; (2) include the public utility's 5 year plan for eligible transmission, distribution, and storage system improvements; and (3) identify projected effects of the plan.

To the extent that the provisions of this bill result in a increase of utility rates, there could be an increase in Utility Receipts Tax (URT), Utility Services Use Tax (USUT), and Sales Tax collections. The potential fiscal impact is indeterminable.

The rate for both the URT and USUT is 1.4%. The URT is calculated on the gross receipts of all entities providing the retail sale of utility services in Indiana. The USUT is imposed on the retail consumption of utility services in Indiana. Both the URT and USUT are deposited in the state General Fund.

Sales Tax revenue is deposited in the state General Fund (99.848%), the Commuter Rail Service Fund (0.123%), and the Industrial Rail Service Fund (0.029%).

Explanation of Local Expenditures: Any increase in the cost of electricity or natural gas could lead to increase in local utility expenditures.

Explanation of Local Revenues: (Revised) *Infrastructure Development Zones*: Under this provision, counties would be permitted to designate certain territories as an infrastructure development zones. Certain property used in the delivery of natural gas, or supplemental or substitute forms of gas sources by a natural gas utility would be exempt from property tax under this bill.

This bill could encourage new infrastructure investment in the territories. The new property would be exempt from property tax. Existing eligible infrastructure in the territory, if any, would also be exempt under this bill. If existing property is exempted, the tax base would be reduced causing an increase in tax rates. The tax rate increase would shift a part of the property tax burden from the newly exempt property to all other taxpayers. In areas where some taxpayers have reached the circuit breaker caps, a tax rate increase would cause additional revenue losses for local civil taxing units and school corporations. The actual fiscal impact would depend on local actions.

State Agencies Affected: OUCC, IURC, SBA, INDOT.

Local Agencies Affected: Local Units of Government.

Information Sources:

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